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Home > Middle East and Islamic Studies > Encyclopaedia of Islam > Encyclopaedia of Islam, Second Edition > Idjtihād

Encyclopaedia of Islam, Second Edition

# Idjtihād

(1,580 words)

(A.), literally "exerting oneself, is the technical term in Islamic law, first, for the use of individual reasoning in general and later, in a restricted meaning, for the use of the method of reasoning by analogy ( *ḳiyās* [*q.v.*]). The lawyer who is qualified to use it is called *mudjtahid* . Individual reasoning, both in its arbitrary and its systematically disciplined form, was freely used by the ancient schools of law, and it is often simply called *raʾy* [*q.v.*], "opinion, considered opinion". An older, narrower technical meaning of the term idjtihād , which has survived in the terminology of the school of Medina, is "technical estimate, discretion of the expert". It was left to Shāfiʿī [*q.v.*] to reject the use of discretionary reasoning in religious law on principle, and to identify the legitimate function of idjtihād with the use of *ḳiyās*, the drawing of conclusions by the method of analogy, or systematic reasoning, from the Ḳurʾān and the *sunna* of the Prophet. This important innovation prevailed in the theory of Islamic law.

During the first two and a half centuries of Islam (or until about the middle of the ninth century A.D.), there was never any question of denying to any scholar or specialist of the sacred Law the right to find his own solutions to legal problems. It was only after the formative period of Islamic law had come to an end that the question of who was qualified to exercise idjtihād was raised. From about the middle ¶ of the 3rd/9th century the idea began to gain ground that only the great scholars of the past, and not the epigones, had the right to idjtihād. By the beginning of the fourth century (about A. D. 900), the point had been reached when the scholars of all schools felt that all essential questions had been thoroughly discussed and finally settled, and a consensus gradually established itself to the effect that from that time onwards no one might be deemed to have the necessary qualifications for independent

reasoning in law, and that all future activity would have to be confined to the explanation, application, and, at the most, interpretation of the doctrine as it had been laid down once and for all. This "closing of the door of idjtihād", as it was called, amounted to the demand for *taḳlīd* [*q.v.*], the unquestioning acceptance of the doctrines of established schools and authorities. A person bound to practise *taḳlīd* is called *muḳallid* . See further Section II.

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J. Schacht, *Origins*, 6 n. 3, 99 f., 116, 127 f.

idem, *Introduction*, 37, 46, 53, 69 ff., and bibliography.

(J. Schacht)

II. According to the classical doctrine of Islamic legal theory, idjtihād means exerting oneself to form an opinion ( *ẓann* ) in a case ( *ḳaḍiyya* ) or as to a rule ( *ḥukm* ) of law ( *Lisān* , iv, 109, lines 19 ff.). This is done by applying analogy (*ḳiyās*) to the Ḳurʾān and the *sunna*. The *mudjtahid* is one who by his own exertions forms his own opinion, being thus exactly opposed to the *muḳallid*, "imitator", who, as Subkī in his *Djamʿ al-djawāmiʿ* says, "takes the saying of another without knowledge of its basis ( *dalīl* )". For thus applying himself he would, according to a tradition from the Prophet, receive a reward even though his decision were wrong; while, if it was right, he received a double reward [see KHAṬAʾ ]. The duty and right of idjtihād thus did not involve inerrancy. Its result was always *ẓann*, fallible opinion (cf. R. Brunschvig, in *Studi orientalistici in onore di Giorgio Levi Della Vida* , i, Rome 1956, 61-82). Only the combined idjtihād of the whole Muslim people led to *idjmāʿ* , agreement, and was inerrant. On the controversy as to the possibility of error in *mudjtahids* see Taftāzānī on the *ʿAḳāʾid* of Nasafī, ed. Cairo 1321, 145 ff. But This broad idjtihād soon passed into the special idjtihād of those who had a peculiar right to form judgments and whose judgments should be followed by others. At This point, and from the nature of the case, a difference arose between theology ( *kalām* ) and law ( *fiḳh* ). Even to the present day many theologians assert that *taḳlīd* does not furnish a saving faith; see for example, the *Kifāyat al-ʿawāmm* of Faḍālī, *passim* , and the translation in D. B. Macdonald's *Development of Muslim theology*, 315-51. But all canon lawyers for centuries have admittedly been *muḳallids* of one degree or another. When later Islam looked back to the founding of the four legal schools ( *madhāhib* ), it assigned to the founders and to some of their contemporaries an idjtihād of the first rank. These had possessed a right to work out all questions from the very foundation [cf. UṢŪL ], using Ḳurʾān, *sunna*, *ḳiyās*, *istiḥsān* , *istiṣlāḥ* , *istiṣḥāb* , etc., and were *mudjtahids* absolutely ( *muṭlaḳ* ). Later came those who played the same part within the school (*fi 'l-madhhab* ), determining the *furūʿ* as the masters had settled the broad principles (*uṣūl*) of *fiḳh* and had laid down fundamental texts ( *nuṣūṣ* ). If the view so

stated was found implicitly in a *naṣṣ* of the founder of the *madhhab* , it was called a *wadjh* . Still later and inferior were those who had a right only by their knowledge of previous decisions to ¶ answer specific questions submitted to them; these were called *mudjtahidūn bi 'l-fatwā* , "For giving legal opinions". All *mudjtahids* had been in a sense *muftīs* , givers of *fatwās* ; but these were *muftīs* only. Such was the formal and generally accepted position. But from time to time individuals appeared who, moved either by ambition or by objection to recognized doctrines, returned to the earliest meaning of idjtihād and asserted the right to form their own opinion from first principles. One of these was Ibn Taymiyya (d. 728/1328; cf. H. Laoust, *Contribution à une étude de la méthodologie canonique de ... B. Taymīya* , Cairo 1939). Another was Ibn Rushd ([*q.v.*]; Averroes, the philosopher, d. 595/1198; cf. R. Brunschvig, in *Études ... Lévi-Provençal* , Paris 1962, i, 41, 56-63). Another was Suyūṭī ([*q.v.*]; d. 911/1505), in whom the claim to idjtihād united with one to be the *mudjaddid* , or "renewer of religion", in his century. At every time there must exist at least one *mudjtahid* , was his contention (Goldziher, *Characteristik ... us-Sujūṭī's* , 19 ff.), just as in every century there must come a *mudjaddid*. Another, but a very heretical one, was the Emperor Akbar ([*q.v.*]; Goldziher, *Vorlesungen* , 311). In Shīʿite Islam there are still absolute *mudjtahids*. This is because they are regarded as the spokesmen of the Hidden Imām (cf. C. Frank, in *Islamica* , ii (1926), 171-92). Their position is thus quite different from that of the *ʿulamāʾ* among Sunnīs. They freely criticize and even control the actions of the Shāh, who is merely a *locum tenens* and preserver of order during the absence of the Hidden Imām, the ruler *de iure divino* (cf. J. Eliash and N. R. Keddie, both in *Studia Islamica* , xxix (1969)). But the Sunnī *ʿulamāʾ* are regarded universally as the subservient creatures of the government (Goldziher, *Vorlesungen*, 215-8, 233, 285).

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III. The question of idjtihād and *taḳlīd* continued to be discussed by the Muslim scholars, particularly in the sub-continent of India. Inspired less by This discussion than, to a certain degree, by the doctrine of Ibn Taymiyya and of his disciples, there arose, from the 12th/18th century onwards, individuals and schools of thought who advocated a return to the pristine purity of Islam, such as the Salafiyya [*q.v.*], who may be called Reformers, and others, from the last decades of the 19th century onwards, who laid the emphasis on renovating Islam in the light of modern conditions, and who may be called Modernists [see IṢLĀḤ ]. Both tendencies reject traditional *taḳlīd* and some Modernists, in particular, combine This with extravagant claims to a new, free idjtihād which goes far beyond any that was practised in the formative period of Islamic law. But the recent reshaping of institutions of the *sharīʿa* by secular legislation in several Islamic countries takes its inspiration from modern constitutional and social ideas rather than from the essentially traditional problem of the legitimacy of idjtihād and *taḳlīd*. Whereas This problem has largely lost its relevance ¶ in the field of "civil" law, it has retained its full importance as far as the religious duties of Islam in the narrow meaning of the term, such as fasting, are concerned.

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